

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

NICOLE SMITH,

Plaintiff,

V.

PLANNED PARENTHOOD OF THE
ST. LOUIS REGION, et al.,

Defendants.

No. 4:03-CV-1727 CAS

ORDER

This matter is before the Court on plaintiff's "Motion for Leave of Court to Allow Filing Date of Complaint as November 26, 2003." Plaintiff asserts that her complaint was date-stamped and placed in the Court's drop box on November 26, 2003, the last date the complaint could be filed, but she did not include a check for the filing fee with the complaint because (1) there was no functioning stapler at the drop box to attach the check to the complaint, and (2) her counsel believed the filing fee could be submitted at a later date. Plaintiff subsequently paid the filing fee on December 2, 2003, and the Clerk of the Court filed her complaint as of that date. Plaintiff asks the Court to have the date of filing relate back to November 26, 2003.

Plaintiff has submitted no legal or other authority in support of her motion to establish that this Court has the discretion to consider her request for relation back, or that her reasons for failing to submit the filing fee with the complaint meet the applicable standard of review of such a request. Local Rule 2.01(B) of this Court provides:


Fees required by law in connection with the institution or prosecution of an action in this court shall be collected in advance by the clerk of the court and deposited in accordance with the directives of the Administrative Office of the United

States Courts, except when, by order of the Court in a specific case, filing in forma pauperis is permitted pursuant to 28 U.S.C. § 1915. The clerk may refuse to receive and file any pleading or document in any case until the applicable statutory fee is paid, except in cases accompanied by a completed application to proceed in forma pauperis.

For these reasons, the Court will deny plaintiff's motion for leave without prejudice.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's "Motion for Leave of Court to Allow Filing Date of Complaint as November 26, 2003" is **DENIED** without prejudice. [Doc. 3]


CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 30th day of December, 2003.